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1 A. When I met with him to let him know that, he
2 asked me the same questions that Slater would ask, is,
3 Why me? Why not her?

4 And certainly the fact that he was so agitated
5 about how the meeting went with Judy, I just -- I sensed
6 that certainly he was aggravated and agitated that it
7 was him and not her.

8 Q. And, again, my question was: Did you observe
9 him become more agitated after you informed him he was
10 being placed on leave?

11 A. Only during a conversation, brief conversation,
12 that he was agitated, that the fact that he was being --

13 (Stenographer clarification.)

14 THE WITNESS: -- being put on leave and not
15 her, Judy.

16 Q. (By Mr. Strauss) You'd seen him be agitated
17 before, hadn't you?

18 MS. SHESTON: About this? Generally?

19 Q. (By Mr. Strauss) In general?

20 A. Yes.

21 Q. And he calmed down at some point; right? He
22 didn't stay agitated for the rest of the time you knew
23 him?

24 A. No, he didn't.

25 Q. So why did you think in this instance, that his

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1 agitation would be an ongoing problem?

2 A. So there were a few incidents where he was
3 agitated during conversations about negotiations. And
4 as time went on and some -- he disagreed with me very
5 adamantly or vehemently, as time went on, I felt that he
6 began withholding more information from me, less
7 communicative.

8 He continued to generally do his job, but I was
9 concerned about this escalating sentiment I was getting
10 from them, that they were unhappy with me, when it came
11 to my role as city manager.

12 Q. Okay.

13 So are you saying that your observation of
14 Will, in particular, being agitated over concerns he had
15 with projects he was working on with you, led you to
16 believe that his agitation over the LaTanya/Judy
17 Shepard-Hall incident would become a bigger problem?

18 A. Yes, I was concerned that, especially in light
19 of the fact that Judy Shepard-Hall was a -- a protected
20 minority, that if that same type of behavior that I
21 started to see in him towards me went that direction, it
22 would cost the City a whole lot in liability if a
23 lawsuit came forward.

24 Q. Did Judy Shepard-Hall sue the City, to your
25 knowledge?

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1 A. Yes.

2 Q. And did she accuse you of anything in her
3 lawsuit?

4 A. Yes.

5 Q. What did she accuse you of?

6 A. Discrimination.

7 Q. And are you being paid to cooperate in that
8 case?

9 A. Yes.

10 Q. And is that case ongoing?

11 A. Yes.

12 Q. Do you know where -- what's happening in that
13 case as of right now? Have you testified -- let me
14 withdraw that.

15 Have you testified in that case?

16 A. No.

17 Q. Have you been notified that your deposition
18 will be taken?

19 A. No.

20 Q. Did -- to your knowledge, did Judy Shepard-Hall
21 accuse Will Morat of discrimination in that lawsuit?

22 A. I don't know. I don't -- I'm not aware of
23 that.

24 Q. But you are aware she accused you of
25 discrimination?

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1 **A. Yes.**

2 Q. Okay.

3 Now, couple minutes ago, you told me about your
4 concerns about Will Morat being agitated in
5 conversations with you about deals he was working on;
6 right?

7 **A. Correct.**

8 Q. And I think you -- you included Slater Matzke
9 in that, as they were both agitated; right?

10 **A. They were -- they were a -- a couple specific**
11 **ones were they were both on the telephone with me, the**
12 **other one was in the office.**

13 Q. Okay.

14 Was there more than one occasion where you
15 observed either one of them being agitated about you in
16 connection with the development deal?

17 **A. I think their -- I mean, their agitation was**
18 **towards my decision.**

19 Q. Okay.

20 But is it -- is it more than one decision or is
21 this something that happened several times?

22 **A. There are a couple times that I can recall**
23 **specifically.**

24 Q. Okay.

25 I'd like to know everything you could remember

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1 about those times.

2 So what's the first one you remember?

3 A. There were the two of them that I can very
4 specifically recall, I can't remember, they were similar
5 in timelines, I can't remember which one comes first or
6 second, but the --

7 (Stenographer clarification.)

8 THE WITNESS: -- the Nimitz, N-i-m-i-t-z, the
9 owners of the -- of the -- of Mare Island. And they had
10 been discussing with the Southern Land Corporation, out
11 of Nashville, joining the development team or becoming
12 the developer of Mare Island. And I had been notified
13 that they would like to -- Southern Land Company wanted
14 to come and introduce themselves to City councilmembers
15 individually.

16 And so we arranged that, and I -- I told Will
17 and Slater that, and they became quite upset at me,
18 that -- and told me that they needed to see who -- that
19 they needed to meet the Southern Land Company before the
20 City councilmembers met them.

21 Q. (By Mr. Strauss) Okay.

22 Do you have any time frame as to when this
23 incident happened?

24 A. I'm not good with dates, but the timeline was
25 very -- very soon after that, they announced their

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1 partnership. So I don't recall.

2 Q. 2020? 2019?

3 A. It probably would have been late 2019 or early
4 2020.

5 Q. Okay.

6 So their concern was that they wanted to meet
7 the new SLC people on the scene before they met with the
8 Council?

9 A. Yes.

10 Q. Did they say why they were concerned about
11 that?

12 A. Yes.

13 Q. What did they say? And if it's one individual
14 versus the other, or if you lump them together, let me
15 know.

16 A. I think they both felt --

17 Q. Okay.

18 A. -- the same way.

19 Q. That's my understanding.

20 A. What they told me was -- is that Southern Land
21 Corporation needed to know that the people they needed
22 to deal with were Slater and Will and not the elected
23 officials.

24 Q. Okay.

25 Did they say why they felt that way?

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1 A. No, not specifically. But you -- but, you
2 know, no. I mean, that -- they would be the -- Slater
3 and Will were the lead negotiators and would be
4 continuing to be that.

5 Q. Okay.

6 A. I told them to honor the request of the
7 Southern Land Company. And they were like, You have to
8 get us into that meeting before they talk to them that
9 we can tell them that the City Council -- that they
10 should be having conversations and discussions with Will
11 and Slater, not with the City councilmembers.

12 They were quite upset when I told them I would
13 get them into a meeting, as I would, to meet the
14 Planning department, Economic Development department,
15 and everybody else, but they were quite upset.

16 And what concerned me about that was the fact
17 that they felt like -- almost felt like they were above
18 the City councilmembers, Will and Slater, to kind of
19 get -- I felt their intentions was to tell them, You
20 need to deal with us, not the City councilmembers, and
21 they specifically wanted to introduce themselves to the
22 City councilmembers as far as who they were and show
23 them some of their brochures and so forth. And Will and
24 Slater were very upset that I did not allow them to go
25 first.

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1 Q. Does the City Council have any direct role in
2 those negotiations?

3 A. They do not have a direct role.

4 Q. So it was just a matter of timing they were
5 concerned about?

6 A. Let's just say Southern Land Company, at this
7 point in time, was not part of any negotiations.
8 Because they weren't -- it was Nimitz Group only. And
9 so, you know, Will and Slater were Economic Development,
10 and I understand their desire to be engaged in this, but
11 my decision to honor Southern Land's desire to introduce
12 themselves to Council before, upset them.

13 Q. Okay.

14 What did they do to lead you to that conclusion
15 that they were upset?

16 A. They were adamant.

17 Q. They strenuously objected?

18 A. Strenuously objected. Thank you for that.

19 Q. What did they do? What did they actually do,
20 though?

21 A. Well, it -- so they're just having the
22 conversation with me that this -- this developer needs
23 to know that not to go to Council, but to go to them.
24 And, you know, these developers and Southern Land are --
25 they're large developers; they're not developers that we

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1 might see doing a small project and locally in Vallejo.
2 And so they understand that it's the city manager and
3 his staff, that's where the negotiations happen. But
4 you also have to build a relationship with your elected
5 officials because, ultimately, that's who makes the
6 decision.

7 And so they just -- they kept pushing me on it.
8 That's when I say frustrated, agitated, whatever that
9 might be, is they didn't accept it and say, Well, that
10 makes sense.

11 So some of the pushback I was gotten, but
12 that's a certain instance.

13 Q. And how did that agitation that you observed in
14 connection with this discussion about Southern Land
15 compare to the agitation sometime later, I take it,
16 where Will was agitated about Judy Shepard-Hall and the
17 incident with LaTanya? What -- how were they related,
18 in your mind?

19 A. I would say I can understand Will being
20 agitated about being placed on administrative leave.
21 Basically someone has two ways, either to accept that or
22 you start debating and arguing it.

23 And so that one -- this one was, in my opinion,
24 incidental when it came to the operations of the City
25 and roles and they were very forceful in trying to say

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1 it needed to be them before the City councilmembers.

2 And honestly, I answer to City councilmembers
3 and there is a relationship that needs to happen, and
4 typically, a developer of this magnitude, of the project
5 scale, will want to build a relationship with the City
6 councilmembers as well. And that was their desire.

7 So what I would say is the -- the -- I mean,
8 there's different levels of aggravation. And I was
9 surprised to see the pushback when it came to this
10 simple decision, in my mind, to say, They want to meet
11 with Council.

12 (Stenographer clarification.)

13 **THE WITNESS: -- with City Council.**

14 Q. (By Mr. Strauss) In connection with that
15 decision regarding Southern Land, did either Will or
16 Slater tell you they thought something improper,
17 immoral, illegal, unethical was going on?

18 **A. Not that I recall.**

19 Q. Okay.

20 By the way, did Will accept his administrative
21 leave? Did he go home or did he stay and refuse to
22 leave the premises?

23 **A. He accepted.**

24 Q. Okay.

25 He never came back?

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1 **A. Not that I'm aware of.**

2 Q. What was the plan when he was on administrative
3 leave? To conclude the investigation and then if,
4 assuming he wasn't found to have done something wrong,
5 bring him back?

6 **A. Certainly to evaluate the -- that particular**
7 **instance. So I looked at it as an isolated incident.**

8 Q. Right.

9 There was no decision made that he was going to
10 be terminated --

11 **A. No.**

12 Q. -- before any investigation; right?

13 **A. No. Correct.**

14 Q. And did you ever see the results of an
15 investigation?

16 **A. I did not see the results of the investigation.**

17 Q. Do you know if the investigation ever happened?

18 **A. I -- I don't recall for sure --**

19 (Stenographer clarification.)

20 **THE WITNESS: -- that the investigation**
21 **happened.**

22 Q. (By Mr. Strauss) Did you decide to terminate
23 Will Morat for reasons completely unrelated to this
24 LaTanya/Judy Shepard-Hall incident because it had not
25 yet been investigated as of the time you fired him?

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1 MS. SHESTON: Lacks foundation. Vague and
2 ambiguous.

3 THE WITNESS: Can you repeat the question.

4 Q. (By Mr. Strauss) Sure. Let me break it down.
5 You made the decision to terminate Will Morat;
6 correct?

7 A. Correct.

8 Q. As of the time you made the decision, had you
9 received the results of any HR investigation into his
10 conduct with respect to the LaTanya/Shepard-Hall
11 incident?

12 A. I don't believe I did.

13 Q. So is it fair to conclude that that incident
14 had nothing to do with your decision to terminate him?

15 A. That incident was concerning to me.

16 Q. But you were keeping an open mind, waiting for
17 the investigation to happen; right?

18 A. Correct.

19 Q. So what role, if any, did it play in your
20 decision to terminate?

21 A. My decision to terminate -- terminate him --
22 that incident was one small piece, and had that been the
23 only incident, it would have been investigation
24 completed and acted upon just that one.

25 But there had been a lot of issues pertaining

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1 to development, Economic Development, so to say. I
2 eliminated that incident completely out of my mind,
3 would not be true. So yes, it played a small piece in
4 the overall decision, but the things that had been
5 happening over time --

6 (Stenographer clarification.)

7 THE WITNESS: Incidents that were happening
8 over that time --

9 (Record read.)

10 THE WITNESS: -- led up to my decision to
11 terminate him.

12 Q. (By Mr. Strauss) All right.

13 Had you ever placed any other employee on
14 administrative leave other than Mr. Morat, while working
15 for Vallejo?

16 A. I don't believe I have. I terminated, but not
17 placed anybody on administrative leave.

18 Q. Other than Mr. Matzke and Mr. Morat, you've
19 terminated other employees?

20 A. Correct.

21 Q. How many?

22 A. Three or four.

23 Q. Okay.

24 Do you have particular people in mind? Not
25 asking for any names.

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1 **A. Do you want their names?**

2 MS. SHESTON: He says he's not asking for
3 names. I think what he's asking is are you thinking of
4 particular instances? So it's kind of a yes-or-no
5 question.

6 **THE WITNESS: Yes.**

7 Q. (By Mr. Strauss) Okay.

8 So when you say three or four, are there -- you
9 can visualize who these people are? You know who they
10 are?

11 **A. Yes.**

12 Q. Okay.

13 When were they terminated? Were they all
14 before Morat and Matzke?

15 **A. Yes.**

16 Q. How -- over what time frame?

17 **A. The -- within the first year.**

18 Q. Okay.

19 Were any of them at the director level?

20 **A. Yes.**

21 Q. Can you tell me the reasons why you made the
22 decision to terminate these individuals. Take them one
23 at a time. I'm not asking names, just generally what
24 was the -- what was the reason?

25 MS. SHESTON: So if you can answer that by

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1 describing the nature of a concern or performance issue
2 or something.

3 MR. STRAUSS: Yeah.

4 MS. SHESTON: Without giving up enough
5 information that the person is identifiable, let's do
6 that.

7 MR. STRAUSS: And trust me, I won't have any
8 idea who they are if that was in your first year.

9 THE WITNESS: Withholding information from me
10 and from the City Council. Very poor customer service.
11 Not good -- causing friction within the leadership team.
12 And then just some inability to move, to get their work
13 accomplished accurately.

14 Q. (By Mr. Strauss) All right.

15 And you just listed four reasons.

16 Are those four distinct individuals or do some
17 of these apply to the same person? More than one?

18 MS. SHESTON: In other words, is there overlap?

19 THE WITNESS: On some of them, yes.

20 MR. STRAUSS: Thank you. Okay.

21 Q. (By Mr. Strauss) Were any of these individuals
22 below the director level?

23 A. No, but they answered directly to me.

24 Q. So they were either a director or an assistant
25 to you?

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1 A. Yes.

2 Q. Okay.

3 And was HR involved in any of the decisions to
4 terminate them?

5 A. They provided me guidance and assistance and
6 counseling.

7 Q. Were any of them investigated by HR prior to
8 the termination?

9 A. No.

10 MR. STRAUSS: Okay. All right.

11 You okay going a few more minutes and then we
12 can break and talk about a lunch break?

13 MS. SHESTON: Sure.

14 THE WITNESS: Yes.

15 MR. STRAUSS: Okay with you? How about you
16 guys?

17 Q. (By Mr. Strauss) So we were talking about
18 instances where Will and Slater were agitated about
19 decisions you made, and you gave me one example
20 regarding Southern Land Company. I got the impression
21 that there was at least one other incident that you were
22 thinking of.

23 Am I correct?

24 A. Yes.

25 Q. Well, tell me about that incident.

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1 A. So the Nimitz Group made a decision to
2 terminate two people from the staff, that being Nate and
3 Stacy, and I cannot remember their last names, but they
4 were the lead negotiators for Nimitz through most of
5 this process. They were working with the owners and
6 kind of managing the project in the early days. And
7 there was a decision made by the ownership team to
8 terminate those two employees.

9 And it was quite apparent to me that over time,
10 that Will and Slater and Shannon, because that was the
11 negotiating team, had -- had -- had a really good --
12 good relationship with them, which is great. So did I.

13 And so I was informed that they were let go,
14 and I went and told Will and Slater that they were let
15 go. They seemed to be quite shocked about that, which
16 is understandable, as was I, but -- so we had some brief
17 discussion, and I said I know nothing about it, you
18 know, why or anything; it was a decision of the company
19 to do that.

20 So probably within 24 hours, they started to
21 indicate to me, Well, businesses are asking what
22 happened with Will and Slater, and they started
23 saying --

24 MS. SHESTON: Asking about Will and Slater or
25 asking --

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1 THE WITNESS: No. They were talking about
2 those two, Nate and Stacy --

3 Q. (By Mr. Strauss) Yeah.

4 A. -- and their termination.

5 So Nate and Stacy were -- like, they were the
6 communication people with Nimitz, along with the
7 gentleman by the name of Brian Nagy. Everybody knew
8 those three people that were on Mare Island businesses.

9 So Will and Slater were very concerned about
10 the -- about being able to answer the questions as to
11 why these two were let go.

12 And so later that afternoon, I just -- I got a
13 phone call, and those two were on the phone, and I was
14 in my vehicle, and they said, We're getting a lot of
15 questions, Southern Land Company needs to get out a
16 press release, they need to put something out that says
17 why they were terminated, and that they're terminated,
18 because there's questions out there.

19 And so I said, That's very understandable. But
20 Brian Nagy, who was actually there when Lennar was
21 there, prior to the Nimitz Group, who was the business
22 liaison with everybody, he had moved over to Nimitz
23 Group, or Southern Land, whichever it was, I don't know
24 for sure, but he would be the contact for any of those
25 businesses, because they all knew him.

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1 As far as answering the question, I didn't have
2 an answer for it, and it wasn't ours to put out, or nor
3 was it mine to demand of the owners of that company to
4 put out a press release.

5 So we probably spent 25 minutes on the phone,
6 and I multiple times told them, We're not putting out a
7 press release, we're going to honor the wishes of the
8 company, and that's their decision; it is not ours, we
9 have nothing to do with this, and so we're going to
10 leave it alone.

11 And they were adamant and for 20 minutes, they
12 argued with me about the fact that it wasn't going to be
13 enough to tell them to talk to Brian Nagy and the
14 company needed to put out a press release.

15 And I -- that, I found that, once again, this
16 extreme pushback and agitation over something that was
17 not our decision to make, wasn't our decision, about a
18 company to do something, when, indeed, there was a
19 spokesman on the island, Brian Nagy, who they all knew,
20 and that's who I finally instructed them, Just tell the
21 businesses to go talk to Brian Nagy, period.

22 And because they wouldn't stop arguing with me.
23 And it surprised me and shocked me, that kind -- that
24 level of pushback on what seemed to be -- I understood
25 their concern about the businesses asking questions, but

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1 the fact that they were demanding a press release on it,
2 versus just saying, you know, Go talk to Brian Nagy.

3 So I had to basically -- I had to tell them,
4 That is how you are to respond to these businesses,
5 because they kept saying, What are we supposed to say?

6 So I was shocked at that. And a little
7 follow-up that -- so I could -- it was very clear they
8 were very unhappy with my decision to say that's how
9 you're going to message that to the businesses who have
10 questions of you, that it was within two days later,
11 meeting with Mayor Sampayan, and he said, I saw Slater
12 in the hallway and -- and I asked him, So what do you
13 think about Nate and Stacy, you know, being removed from
14 Southern Land, because the mayor knew them as well; they
15 were quite well-known.

16 And, you know, as someone who works directly
17 for me, I would have expected, you know, him to say, You
18 probably -- you should discuss that with Greg. Or
19 explain to them what I had -- how I had got to the
20 conclusion that said, You need to go talk to Brian Nagy,
21 because he's -- that's who is with Southern Land.

22 And Slater told the mayor, Why don't you go
23 talk to Brian Nagy.

24 And I found that almost, I thought, Why would
25 you tell the mayor that? I understand I told you to

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1 tell the businesses to do that, but why would you tell
2 the mayor to go talk to Brian Nagy, when the mayor can
3 just talk to me?

4 Q. Did you know reasons why they were let go?

5 A. I did not.

6 Q. Okay.

7 A. And so that was another incident of, as -- as
8 things escalated it, it was -- our relationships was
9 very good working together. We -- we worked through a
10 lot of term sheets. And understand, I -- I did have
11 input to put into those, even though they did the
12 majority of the work. They -- Will, Slater, and --

13 Q. Shannon?

14 A. -- Shannon.

15 So that incident, again, was -- it felt very
16 challenging. They were challenging me, saying, You're
17 not doing the right thing or something here.

18 And probably the last one is that -- is the
19 whole conversation about substantially.

20 Do you want me to talk about that now or that's
21 a story that --

22 MR. STRAUSS: Why don't we go off the record.

23 THE VIDEOGRAPHER: All right.

24 The time is 12:39 p.m. and we are going off the
25 video record.

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1 (Recess taken from 12:39 p.m. to 1:15 p.m.)

2 THE VIDEOGRAPHER: The time is 1:15 p.m. and we
3 are back on the video record.

4 Q. (By Mr. Strauss) All right.

5 Welcome back, Mr. Nyhoff.

6 **A. Thank you.**

7 Q. Ready for more?

8 **A. Absolutely.**

9 Q. Appreciate that.

10 So before the break, just before the break, you
11 were about to tell me the saga of the word
12 "substantially." And I can phrase that hopefully in the
13 form of an admissible question, if you'd like.

14 Did you have some -- experience some agitation
15 on the part of Mr. Morat or Mr. Matzke regarding the
16 word "substantially" in a contract?

17 **A. Yes. Yes.**

18 Q. What happened?

19 MS. SHESTON: Belated objection to the use of
20 the word "contract" as vague and ambiguous.

21 Q. (By Mr. Strauss) I'm going to substitute the
22 word negotiation.

23 **A. Okay.**

24 So, again, Will Slater and Shannon are the
25 negotiators, and so they had been negotiating for

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1 probably a couple months, a few months, and it appeared
2 that, you know -- so I would get briefed, and we'd talk
3 about some of the terms of it, and they'd go back and
4 work through it from the City Attorney's Office. So it
5 was going, seemed to be going very, very well, the
6 negotiations with -- it was Nate and Stacy.

7 So I went over to their headquarters building,
8 just -- I just was going to stop by and see if Dave
9 Phinney was there; he wasn't, but Nate and Stacy were
10 upstairs. I went up there and just asked them how it's
11 going. Just, I hadn't heard anything, good, bad or
12 otherwise.

13 And Nate said that it wasn't going okay. And
14 the fact of the matter is he could not recommend this
15 agreement with the words "100 percent, complete," that
16 were -- which were what Will and Slater were
17 negotiating.

18 And he explained why -- why he was -- why he
19 was concerned with that, because it's a multimillion
20 dollar deal, part of it's the land, the sale of the
21 land, there's going to be a lot of expenses in cleaning
22 up properties.

23 And he said at 100 percent means that if you
24 don't have a punch list left on a \$40 million project or
25 a tree not planted in the landscaping, the City, based

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1 on "100 percent," could take it all back, including
2 whatever they built. And he said, I can't accept that.

3 And so I asked him, I said, What are you --
4 what terminology would you accept?

5 And he said, Well, substantially complete.
6 That way, if we have minor items that aren't complete,
7 the City has no -- you know, we can agree that
8 substantially complete is appropriate.

9 And so I thought that was reasonable; it made
10 sense to me. I'd done a lot of -- I hadn't been the
11 negotiator on the teams, but I'd worked with a lot of
12 businesses and "substantial" versus "100 percent" is
13 quite normal because it's -- when you're in that big of
14 an agreement that's going to be going on for probably
15 30, 40 years, having 100 percent something is always
16 going to be a little difficult, especially when there's
17 so much unknowns, things might come up. And his concern
18 was the City has the ability to take everything they did
19 and -- and take it under ownership.

20 So I brought Will and Slater in and I said,
21 Just talked to Nate, and Nate is concerned and said he
22 can't support this without the word "substantially."

23 And so Will -- Will explained his position --
24 and I keep saying Will because he's the -- he's the one
25 who spoke most often about the technical, specific side;

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1 that, you know, that 100 percent means we guarantee,
2 they're going to have to guarantee it gets done, and
3 then in his mind, that was the best for the City.

4 And I understood that, and so I explained the
5 substantial -- substantially complete, which means
6 almost complete, almost 100 percent, but the fact of the
7 matter that I understood the request by Nimitz Group,
8 that they were concerned that 100 percent was too rigid,
9 and it didn't allow some flexibility for either party to
10 say, You know what, you've made substantially complete,
11 and agree to that.

12 They were -- they stood strong on their
13 position on that and said, We think it needs to be 100
14 percent. And we discussed it, and pretty much that was
15 the end of that conversation, but we brought it back up
16 soon after. And I raised it to Will again, and I said,
17 I need you to put the word 'substantially' complete in
18 there. I think that's appropriate. I think it's common
19 in development projects of this magnitude. And so I
20 want to see that word in there.

21 And Will looked at me and said he will not do
22 the presentation with that word in there.

23 Q. (By Mr. Strauss) Okay.

24 And when did this happen? We can't help you.

25 A. I know. I was just thinking.

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1 MS. SHESTON: Well, if you can -- if you can
2 give an estimate or tie it to something else, that would
3 be great. If you really can't, that's okay, too. Just
4 say so.

5 THE WITNESS: It -- well, I -- putting on
6 administrative leave was a pretty hard line timeline, so
7 it was -- it was months before that.

8 Q. (By Mr. Strauss) Okay.

9 A. And it would be months before -- you know. So
10 probably six months, maybe more, kind of that
11 original -- we were in the original conversations and
12 meetings to try to come up with an agreement.

13 So I asked him, What do you mean by that? You
14 won't do the presentation if I -- if I tell you I want
15 that word in there?

16 And he said, I'm not going to do the
17 presentation.

18 And I felt, wow, you know, at the end of the
19 day, it's my responsibility here on this term agreement,
20 what I present to City Council. I felt it was fair, and
21 I felt it was common, and I was surprised to see his
22 pushback and to say to me, Well, then I'm not going to
23 do the presentation. I thought it was almost
24 insubordinate.

25 So I told him, You know what, then I'll just

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1 have to find somebody else to do it. In other words,
2 we're going to go forward with this project with that
3 word in there. If you won't do it, then I will find
4 somebody else to do it.

5 But then I took -- so I was -- I didn't want
6 that kind of -- I didn't feel comfortable with how we
7 left that. So I ended up asking -- and this is one of
8 these situations where you talked earlier, we discussed
9 the getting a second opinion.

10 So I said, You know what, I'm going to ask the
11 city attorney, Claudia Quintana, and Randy Risner, the
12 assistant city attorney, to meet with Shannon, Will,
13 Slater, and I. And we'll ask them, you know, Is that a
14 term of -- of concern, substantially, or not?

15 And so I ended up bringing us all together and
16 discussed it with the Attorney's Office, and both the
17 city attorney and the assistant city attorney said yes,
18 it's very common; we don't have any problem with that.
19 As so after that, you know, it all went away as far as a
20 conversation about the word "substantially."

21 But until I did that, and just really surprised
22 me, and felt very insubordinate for him to look at me as
23 the city manager and his direct boss and tell me he
24 wouldn't do that, especially on such a big project, for
25 one word, that wasn't very far off 100 percent, versus

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1 substantially complete.

2 So it was just one of those -- another
3 situation where the pushback, and the, almost, You know
4 what, it's not your decision to make, Greg, it's ours,
5 and if you don't agree with us, then we're just not
6 going to do it.

7 That was kind of another incident, as we've led
8 up to, even the -- even the administrative leave.

9 Q. Okay. Thank you for that.

10 So who made the presentation, if anybody?

11 A. Yeah, so, I mean, Will made the presentation,
12 and so only after I brought up the City Attorney's
13 Office into the situation was it all seemed fine. There
14 was no more conversation about the word "substantially"
15 versus "100 percent." So we moved forward after that.

16 Q. They both dropped it after that?

17 A. Yeah. And I think Shannon was probably --
18 agreed with them because she was part of the negotiating
19 team on the "100 percent."

20 Q. I was going to ask you that: Did Shannon
21 Eckmeyer express an opinion whether "substantially" was
22 an appropriate term for the contract?

23 A. I don't recall her doing that. It wasn't --
24 you know, it wasn't a legal decision. It was more a
25 policy decision --

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1 Q. You don't remember her expressing -- I'm sorry.
2 I talked over you.

3 You don't remember Shannon Eckmeyer expressing
4 the view that it was not in the best interest of the
5 City to use the term "substantially"?

6 A. I don't recall her saying that.

7 Q. Did either Will or Slater ever drill down
8 and -- and tell you exactly where they had concerns
9 about the use of the word "substantially"? What they
10 thought might happen if that word was used?

11 A. They -- they did explain to me their reasoning
12 behind it, yes.

13 Q. What did they share with you?

14 A. They -- they shared that Vallejo was known for
15 its lack of success in projects and putting "100
16 percent" on there would assure that the project would
17 get done.

18 Q. Okay.

19 Did they refer to any specific projects that
20 were in the past that had failed because they didn't
21 have "100 percent" in it?

22 A. I don't recall any specific ones, but certainly
23 their comment about the Modesto -- Modesto -- Vallejo
24 had failed on other projects; that putting "100 percent"
25 in there would ensure that.

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1 Q. Were you aware of other projects that had
2 failed?

3 MS. SHESTON: For whatever reason?

4 MR. STRAUSS: Yeah.

5 THE WITNESS: Well, I think -- when I got to
6 Vallejo, I would call an --

7 (Stenographer clarification.)

8 THE WITNESS: Lennar's ownership of the project
9 a failure.

10 Q. (By Mr. Strauss) Did anyone ever share with
11 you the belief that Lennar's ownership failed because of
12 terms that were used in the contract?

13 A. You know, we had so many conversations about
14 that, and I would concur that there were many failures,
15 I don't recall specific conversations. I remember we
16 had conversations about the terms of the agreement, but
17 I don't remember specific conversations about them.

18 Q. Did either Slater or Will ever share with you
19 their concern that the word "substantially" was
20 ambiguous enough to lead to litigation in the future?

21 A. They did state --

22 (Stenographer clarification.)

23 THE WITNESS: -- state their opinions.

24 Q. (By Mr. Strauss) What did they say?

25 A. They said "100 percent" is a clear-cut number;

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1 "substantially complete" is -- is more vague and allows
2 room for negotiating and potentially some form of
3 lawsuit at the end.

4 Q. Did you ever see a term sheet reduced to
5 writing that used the "100 percent" term, something that
6 they were proposing?

7 A. Say -- ask me that.

8 Q. Did you ever actually see something in writing
9 that they proposed that said 100 percent completion?

10 A. No.

11 Q. Okay.

12 A. I don't believe I did.

13 Q. When you met with Nate and Stacy, is it?

14 A. Yes.

15 Q. Did you tell them, Okay, I'll agree to the
16 substantially, let me go back and talk to my team?

17 A. I told them I would go back and talk to my
18 team.

19 Q. You didn't agree with it?

20 A. No.

21 Q. Had you, yourself, ever been -- ever worked on
22 an agreement that actually contained that "substantially
23 complete" language before this?

24 MS. SHESTON: In Vallejo or ever?

25 MR. STRAUSS: Ever.

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1 THE WITNESS: I would say I don't ever
2 remember -- first of all, I didn't -- I never worked on
3 the agreements other than the negotiating terms.

4 So projects of this magnitude, I would say
5 never put 100 percent on there. There's too many
6 variables. On a small project, we might say 100 percent
7 complete. But on the bigger projects, no.

8 And typically what happened when you do put 100
9 percent on there, there's a renegotiation that happens
10 because it's -- it's -- just too many variables on a
11 project like that, so -- yeah.

12 Q. (By Mr. Strauss) I think you skipped ahead to
13 a question I haven't asked yet, but I was going to.

14 Have you ever been part of a negotiation where
15 the language "substantially complete" had been used?

16 A. I don't recall those specific words --

17 Q. Okay.

18 A. -- being in the agreement.

19 Q. Are you certain that it was Will and -- that
20 Will and Slater wanted the terms to say "100 percent
21 complete," as opposed to -- to some other language?

22 A. I am not, but they were arguing for it, so that
23 was -- the deduction I made, is they were arguing for
24 the 100. And Nate said that's what --

25 (Stenographer clarification.)

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1 MR. STRAUSS: Said they were arguing for.

2 Q. (By Mr. Strauss) Right?

3 A. Correct.

4 Q. But you wouldn't take the word of -- from
5 somebody on the other side of the table as to what the
6 City's position was; you'd want to go to Will and Slater
7 and find out exactly what they were asking for; right?

8 A. Which is what I did.

9 Q. Sure.

10 You wouldn't take Nate and Stacy's word for it?

11 A. No.

12 Q. Okay.

13 You understood they were in a -- at least -- in
14 theory, adversarial position?

15 A. I had never heard that it was an issue until
16 I -- until Nate came out with it.

17 Q. Okay.

18 Did you ever hear Will or Slater say, We need
19 to have identifiable benchmarks in the agreement, as
20 opposed to 100 percent complete?

21 MS. SHESTON: Vague and ambiguous. Lacks
22 foundation.

23 Go ahead.

24 THE WITNESS: I -- I did. And we -- we put
25 those, a lot of benchmarks in there. It was one of the

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1 things that we -- that's -- we did demand and
2 collectively agree on those benchmarks, and Will and
3 Slater were the ones negotiating what those benchmarks
4 would be for a completion of certain steps in the
5 project.

6 So yes, the 100 percent conversation never came
7 up until the very end. It was like -- everything else
8 had worked out, except for that one concern that Nate
9 expressed to me.

10 Q. (By Mr. Strauss) And the -- the term sheet
11 that resulted from this dialogue that had substantially
12 complete language, is that the final term sheet that was
13 submitted to the City Council?

14 A. My recollection is yes.

15 Q. Had the City Council approved the term sheet as
16 of the time that you had left your employment with
17 Vallejo?

18 A. Yes.

19 Q. And was that ever renegotiated or changed after
20 you left -- after you left, to your knowledge?

21 A. When I left, it was recognized that the
22 representatives from Nimitz, once the Southern Land
23 Company came on board, that especially when it came to
24 the soils reports that were required to, you know,
25 develop on this property were there, but they were

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1 grossly misunderstood and there was going to be no way
2 for them to be able to achieve that.

3 And so yes, it was renegotiated. I don't -- I
4 don't recall if it was right before I left that a
5 renegotiated term sheet was done or not. I know we were
6 working on it -- or Gillian was working on it with City
7 Attorney's Office.

8 Q. And Will and Slater were long gone by that
9 point?

10 A. Yes.

11 Q. Did Will or Slater ever use the phrase
12 "shredding the term sheet" to you?

13 A. I certainly heard that term, but I don't think
14 that they -- it would have been after their
15 employment --

16 Q. Okay.

17 A. -- that I heard it. But maybe one of them said
18 it or told somebody that. I just heard that word.

19 Q. Do you remember what context you heard it in
20 and what they were referring to?

21 A. Actually, I never talked to Will and Slater
22 afterwards. It would be part of the public conversation
23 and discussion, that people were calling in and saying,
24 Oh, you know, they shredded the term -- the old term
25 sheet.

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1 There was a few people in the audience that
2 felt that it was the wrong thing to do and voiced their
3 opinion. To -- to -- to amend the agreement.

4 MS. SHESTON: Keep your voice up, if you would
5 please.

6 THE WITNESS: All right.

7 MS. SHESTON: She's going to start throwing
8 things at us.

9 THE WITNESS: Okay.

10 Here we go.

11 Q. (By Mr. Strauss) And shredding the term sheet,
12 is that -- is it your understanding that this was in
13 connection with this renegotiation after the soils
14 report came back?

15 A. Yeah, I -- I've heard those words stated. I
16 mean, the bottom line to that is that people use that
17 terminology because a lot of the things that were in the
18 first version of the term sheet were removed from the
19 second.

20 Q. Okay.

21 Did you ever have any conversations with
22 Shannon Eckmeyer where she gave you legal advice or a
23 legal opinion and you told her, I want a different
24 opinion, I want different advice?

25 A. Yes. And the -- we -- we talked about that

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1 earlier, that in -- there were a couple times when these
2 agreements that we were discussing, there were
3 provisions in there, that, again, legal advice on very
4 specific laws pertaining to the City or the State or the
5 federal, those are -- those are un -- those are
6 interpreted, they're to be followed.

7 But sometimes City regulations or zoning or
8 land use regulations can be interpreted in a different
9 way.

10 So yes, there were a couple of times I asked
11 her or suggested she get a second opinion, an outside
12 consultant, similar to what I did when I asked Claudia
13 and Randy to join our conversation about the "100
14 percent." That was not a legal question specifically,
15 but it was a policy question.

16 Q. That you wanted legal advice on?

17 A. Well, typically all those agreements are going
18 to get legal advice on it, so --

19 Q. Sure.

20 A. -- yes.

21 Q. Did you ever say to Shannon, words to the
22 effect of, Change your advice or I'll find somebody who
23 will?

24 A. There was probably at least one instance where
25 I was frustrated at us not getting to yes, and I had 30

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1 years of experience in this business that I knew that
2 it -- it -- if she would just look at it and maybe talk
3 to another person, another consulting firm, whether or
4 not, you know, there's another option here to get to
5 yes, versus to say no.

6 And so I -- I was frustrated on this one
7 occasion that I told her -- I told her, If you won't --
8 you know, if you don't -- if you won't look at this and
9 look for a different, you know, in- -- input into it,
10 then -- I mean, I can't go out and hire somebody over
11 the City Attorney's Office, so it's well known that
12 Claudia Quintana would have to do that, the city
13 attorney. I wasn't going to go hire somebody because I
14 can't do that. Only the City Attorney's Office, so I
15 would go speak with Claudia about getting another one if
16 that's what I felt was necessary.

17 Q. Do you remember when that conversation took
18 place?

19 A. I do not.

20 Q. Do you remember what the issue was?

21 A. I don't recall that.

22 Q. Okay.

23 Earlier, you told me that with respect to Will
24 and making the presentation, you used similar language,
25 Do it or I'll find somebody else who will; is that --

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1 MS. SHESTON: Objection. Misstates his
2 testimony. Lacks foundation.

3 Go ahead.

4 Q. (By Mr. Strauss) Do you agree that's what you
5 said to Will?

6 A. Yes.

7 Q. Did you ever use similar words to anybody else
8 other than those two instances you just told me about?

9 MS. SHESTON: Lacks foundation.

10 Go ahead.

11 THE WITNESS: No. Because, actually, I don't
12 think it was -- anybody ever told me no, they won't --
13 wouldn't do something that they needed to do as their
14 job.

15 Q. (By Mr. Strauss) Okay.

16 Excuse me. Let's talk about Joanne Altman for
17 a minute.

18 You knew her?

19 A. Yes.

20 Q. What was her position when you were the city
21 manager?

22 A. Well, you helped me remember that I promoted
23 Will, but I think she was assistant to the city manager.
24 That's what she was when I -- when I left, so.

25 Q. Okay.

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1 A. Assistant to the city manager.

2 Q. And what were her duties, in general?

3 A. The position, again, when I got there, was, you
4 know, special projects mostly, or things that were
5 assigned to them.

6 So what I -- my recollection when I first came
7 is she was in charge of communications, and she was
8 known as the cannabis czar for the City, amongst going
9 to some of the committee meetings and --

10 (Stenographer clarification.)

11 THE WITNESS: -- citizen community meetings.

12 Q. (By Mr. Strauss) Did she have a role in
13 Communications?

14 A. Yes.

15 Q. What was her role?

16 A. She was the -- she, basically, was the person
17 in charge of Communications for the City, for -- not for
18 the police department or the fire department, but for
19 the City, we call general.

20 Q. Did she apply to be assistant city manager?

21 A. Yes, she did.

22 Q. Who made the decision to hire her or somebody
23 else?

24 A. Ultimately, I made the decision to hire the --
25 who I hired for the assistant city manager, but it went

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1 through a process of directors also interviewed prior
2 and made recommendations to me.

3 Q. Was it the -- Anne Cardwell who got hired for
4 that position?

5 (Stenographer clarification.)

6 Q. (By Mr. Strauss) Anne Cardwell.

7 A. Correct.

8 Q. Did Ms. Cardwell come from outside the City?

9 A. Yes.

10 Q. Was there any particular reason why you didn't
11 think Joanne Altman was the best fit for that position?

12 A. So -- yeah, I put together a process so that,
13 you know -- for instance, department heads had the
14 opportunity to give me feedback on that as well, and
15 they provided feedback that did not include her as their
16 recommendation on who to hire.

17 And so some of the feedback from them, and I
18 would have to concur, was that she was -- she was a
19 little standoff-ish and a little -- sometimes could be
20 arrogant in her opinion of things, and that she wasn't
21 ready for the -- didn't feel like she worked together as
22 a team member very well at times.

23 And so I would agree, that I didn't feel that
24 the maturity there to operate at the level of assistant
25 city manager was there yet. And so ultimately, I made

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1 the decision to hire Anne, who had been an assistant
2 city manager prior, too.

3 Q. Did Anne have more experience in City
4 government than Joanne?

5 A. As an assistant city manager.

6 Q. What about just in terms of any position in the
7 City; do you remember?

8 MS. SHESTON: Just total cumulative experience
9 as a City employee?

10 MR. STRAUSS: Yeah.

11 THE WITNESS: I don't recall how many years she
12 had.

13 Q. (By Mr. Strauss) Okay.

14 Did -- did you think Joanne was good at her
15 job?

16 A. I thought she was adequate at her job.

17 Q. Did you have any specific criticisms of her job
18 performance up until the time she was terminated?

19 A. I didn't -- I did not -- so the latter part
20 of -- prior to her termination, was she was under the
21 direction of Anne Cardwell, and she was under the
22 direction of Teri Killgore, who was the former assistant
23 city manager.

24 So I didn't have the day-to-day interaction
25 with her, but I would say about her that she -- I

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1 would -- I would -- I would rate her as an okay when it
2 came to doing public communications.

3 So, again, doing this for as long as I have,
4 I've seen a lot of public communications in the past,
5 and so I would try to help her work through those and
6 sometimes change them, or recommend that she change
7 them. Generally for the -- the projects we assigned
8 her, she did an adequate job.

9 Q. Did you ever put any criticisms of her job
10 performance in writing?

11 A. No.

12 Q. Are you aware of Anne Cardwell putting
13 anything --

14 A. No.

15 Q. -- in writing?

16 A. No.

17 Q. Something I'm confused about, among many, is
18 this change where Anne Cardwell became her direct
19 supervisor and she was out of your chain of command.

20 Is that what happened?

21 A. She was out of my direct chain of command.
22 I'm -- my recollection is she was out of my chain of
23 command with Killgore, with the former assistant city
24 manager, as well. So yes, she basically took direction
25 from Anne Cardwell.

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1 Q. Okay.

2 But you were her ultimate supervisor because
3 you supervised Anne Cardwell?

4 A. Other than the City Attorney's Office and
5 Police employees, yes, I am the ultimate authority
6 there.

7 Q. My understanding is that you personally made
8 the decision to terminate Matzke and Slater, and then
9 Anne Cardwell made the decision to terminate Altman.

10 Is that -- is that a correct understanding?

11 A. So Anne was -- so we had discussed with the
12 City Attorney's Office, you know, a lot of the specifics
13 of coming up with that decision. So ultimately, that's
14 my responsibility and authority to make that
15 determination, and Anne would make the recommendation as
16 her direct supervisor.

17 Q. Well, you recall signing a declaration under
18 penalty of perjury regarding the decisions to terminate
19 my three clients?

20 A. Probably three years ago.

21 Q. Sure.

22 And I'll show it to you eventually.

23 A. We're going to get there.

24 Q. Yeah, we'll get there.

25 But my understanding from that document is that

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1 Joanne Altman was fired by Anne Cardwell.

2 And you're now telling me that's not exactly
3 accurate?

4 A. Well, again, ultimately, I'm the one who has to
5 sign off at the end of the day and -- over all
6 employees, so -- yeah.

7 Q. Okay.

8 Anne Cardwell made a recommendation to you to
9 terminate Joanne Altman?

10 A. Yes. Again, ultimately that's my --
11 (Stenographer clarification.)

12 THE WITNESS: I'm the only one with the
13 authority to do that.

14 Q. (By Mr. Strauss) When did she make a
15 recommendation to you?

16 A. We probably spent a week or so prior to the
17 actual termination date discussing it with legal
18 counsel, and the two of us.

19 Q. Okay.

20 They were terminated in April of 2020; is that
21 your recollection?

22 A. Yes.

23 Q. Okay.

24 So it was a week or so before that happened
25 that she -- Anne Cardwell made a recommendation to you?

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1 A. Yes.

2 Q. And what did she tell you?

3 A. She recommended termination and I think -- so
4 obviously she worked with her the entire time, so I
5 don't recall what those specific things were on a
6 day-to-day basis, but there were two things that -- from
7 me directly that -- that concerned me.

8 The first one was when I actually hired Anne
9 Cardwell for the city manager job. She was -- Joanna
10 was on the same floor as me, and so she made the
11 decision and became public.

12 She came in to the door -- my doorway, and she
13 looked at me and said, I have reviewed Anne Cardwell's
14 reference, I have more experience with her than she
15 does, and this job was mine. And she walked out of the
16 room.

17 Q. I think you said when you hired her for the
18 city manager position?

19 A. I'm sorry, the assistant city manager. Thanks
20 for correcting me.

21 So there was that and --

22 Q. Hold on.

23 Did you ever make Anne Cardwell aware of that
24 comment?

25 A. I don't believe so.

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1 Q. Okay.

2 Because if you -- we return to my question, I'm
3 asking you what Anne Cardwell said to you to recommend
4 the termination --

5 A. Yeah, I'm sorry.

6 Q. -- of Joanne Altman?

7 A. So what she did tell me is via the --
8 Christina, who is in the Public Communications
9 department, working for Joanna, she told me that
10 Christina had come to Anne and said, Joanna had said
11 that, Just to let you know, Christina, Greg and Anne are
12 trying to destroy the City.

13 And those would be two specific moments where I
14 would find someone working very directly for me, to, you
15 know, walk in my door, say this to me, and for Anne to
16 relay that information.

17 Q. Hold on. I want to understand what you just
18 told me.

19 So Christina is who?

20 A. She was in the -- she worked in Public
21 Communications.

22 Q. What's her last name?

23 A. I don't recall.

24 Q. Okay.

25 And --

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1 A. She worked for Joanna.

2 Q. Okay.

3 A. Under Anne.

4 Q. And you know what Christina had to say to Anne
5 because Anne told you?

6 A. Correct.

7 Q. During the time period when she was making a
8 recommendation to terminate?

9 A. No, before that. So as far as -- so -- yes.
10 So as far as what Anne made recommendations for me, I
11 don't recall the specifics of the conversation, as far
12 as what she had done. I left -- you know, I -- my -- my
13 directors and assistants, they ran the supervisory role.
14 I didn't ask for all the specific information.
15 Sometimes I just had to say, Okay, understood, and make
16 the decision.

17 Q. All right.

18 So is that what happened here, Anne Cardwell
19 came to you and said, I want to fire Joanne Altman,
20 didn't give you any specifics or reasons and you said,
21 Go ahead?

22 MS. SHESTON: Misstates testimony. Lacks
23 foundation.

24 Go ahead.

25 THE WITNESS: So the assistant city manager and

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1 I met very regularly, and there's an ongoing
2 conversation about things that -- that would be of
3 concern to her about certain employees, especially those
4 that worked directly there.

5 And so we had a number of those discussions.
6 I can't recall any of the specifics of those, but
7 certainly one of the things we did was we gave Joanna
8 feedback after -- after she didn't get the
9 recommendation of the directors, which she agreed and
10 asked for, and then we hired her a coach in order to try
11 to, you know, increase that -- increase her experience,
12 her -- her -- some of this demeanor issue that she
13 had -- or I don't know if people just had difficulty --
14 "rubbed them the wrong way," I think was the word they
15 used, to work on that. So we offered her a coach for
16 that.

17 So you can hear some of those things that Anne
18 and I would have discussed or actually seen in person.

19 Q. (By Mr. Strauss) Okay.

20 So, again, I want to -- I want to try to
21 understand this as best as you can tell me.

22 You personally observed Joanne complain about
23 not being hired as assistant city manager; right? As
24 you've described?

25 A. Complaint would be -- yes.

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1 Q. She was upset?

2 A. Yes.

3 Q. And she let you know it?

4 A. Yes.

5 Q. And you never told Anne Cardwell about that
6 conversation?

7 A. I probably did.

8 Q. Why do you say you probably did? What does
9 that mean?

10 A. Because I thought it would be important --
11 (Stenographer clarification.)

12 THE WITNESS: I thought it would be important
13 when Anne first came in that she understood that Joanna,
14 who would be working under her, was very upset that Anne
15 got the job. I do believe I had that conversation with
16 Anne when she first came on board.

17 Q. (By Mr. Strauss) Do you have a recollection of
18 having that conversation or are you just speculating?

19 A. To the best of my recollection.

20 Q. Okay.

21 I'm just pressing you because earlier you told
22 me you hadn't -- you didn't tell her, so I'm trying to
23 know what your best recollection is.

24 As you sit here now, do you have a specific
25 recollection of having that conversation?

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1 A. I do not.

2 Q. Did you put anything in writing about that
3 incident?

4 A. No.

5 Q. Did you tell anybody else about it?

6 A. I don't recall telling anybody else about that.

7 Q. Did you tell anyone in HR about it?

8 A. I don't recall.

9 Q. Okay.

10 But you think you might have shared it with
11 Anne Cardwell because you thought she had a right to
12 know?

13 A. I thought it was important for Anne to know
14 that Joanna was upset that she didn't get the job, and
15 she said she saw Joanne's resume and said it wasn't as
16 good as hers.

17 Q. Is there anything improper about Ms. Altman
18 seeing that resume?

19 A. No.

20 Q. Okay.

21 Did Ms. Altman ever raise this issue again with
22 you? That she was upset she didn't get the position
23 because she felt she was better qualified?

24 A. No.

25 Q. And you gave her some coaching as a result of

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1 that incident?

2 A. No. She received coaching from when she went
3 through the interview process and the directors
4 interviewed her on what things she could have done
5 better.

6 Q. Got it. Okay.

7 So how did that incident play a role, to your
8 understanding, in your decision to terminate Joanne
9 Altman?

10 A. So, first and foremost, Anne's recommendation
11 was the most important part of that, but certainly
12 the -- the telling a employee working for the
13 organization that we're trying to -- Anne and I are
14 specifically trying to destroy the City was extremely --

15 Q. Well, we'll get to that. That's a different
16 incident.

17 MS. SHESTON: But let him answer your question.
18 If he's saying that played a part in his thinking.

19 Q. (By Mr. Strauss) Go ahead.

20 A. So those -- those items, when you're -- you
21 know, speaking to a subordinate and telling them that
22 someone you directly work for -- or directly work for my
23 office is -- both of us -- assistant and city manager,
24 are trying to destroy the City, you're -- in my opinion,
25 you're making a very strong statement about your support

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1 for those people.

2 Q. Okay.

3 So let's then -- I want to go over this
4 Christina comment again, just to make sure I understand.

5 It was related to you by Anne Cardwell;
6 correct?

7 A. Correct.

8 Q. And what did she tell you Christina said?

9 A. That Joanna said that, Greg and Anne are trying
10 to destroy the City. And that was the extent of it.

11 Q. Okay.

12 And did you talk to Christina yourself about
13 that comment?

14 A. No.

15 Q. Did you speak with Joanne Altman about that
16 comment?

17 A. No.

18 Q. Why not?

19 A. Because I had already seen how agitated and
20 angry with my decision to hire Anne instead of her, that
21 I just made the assumption that that's how she felt
22 about me and her, even though her daily work didn't --
23 she still took care of her daily day-to-day job. So I
24 chose not to discuss that with her.

25 Q. And when was Anne hired?

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1 MS. SHESTON: If you can give him an estimate
2 or tie it to some other event, that's great, but don't
3 guess.

4 THE WITNESS: It's going be a guess.

5 Q. (By Mr. Strauss) Was it a year before? Two
6 years before?

7 A. I'm guessing it's a year before I -- over a
8 year before I left. I'm sure they have a record of it.

9 Q. I'm sure they do, too.

10 Well, again, my clients were terminated in
11 April of '20.

12 Was Anne Cardwell hired within a year of April
13 of '20?

14 A. I don't know for sure. I can't recall that
15 specific date.

16 Q. Okay.

17 Did anybody, to your knowledge, put in writing
18 anything concerning this comment that Christina related
19 to Anne Cardwell?

20 A. I don't know.

21 Q. Do you know if HR was notified of that comment?

22 MS. SHESTON: Calls for speculation.

23 Go ahead.

24 THE WITNESS: I'm -- I'm -- I don't know. I
25 don't have no information about that.

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1 Q. (By Mr. Strauss) Okay.

2 Did anyone relate to you any context of -- of
3 how that comment came about?

4 MS. SHESTON: The comment to Christina?

5 MR. STRAUSS: Yeah. The -- yes, exactly.

6 **THE WITNESS: No.**

7 Q. (By Mr. Strauss) Do you have any understanding
8 as to if the comment was, in fact, made, what -- why
9 Joanna made it?

10 **A. No.**

11 Q. To your knowledge, did anybody do any
12 investigation to find out what that was about?

13 **A. No, I don't believe so.**

14 Q. Are you aware of that comment being made more
15 than one time?

16 **A. No.**

17 Q. Okay.

18 When Anne Cardwell made the recommendation to
19 you that Joanna be terminated, did she specifically
20 reference the Christina comment?

21 **A. My recollection of it as one component of the**
22 **conversation is yes --**

23 Q. Okay.

24 **A. -- it did come up.**

25 Q. Do you remember what she actually said during

July 19, 2023

1 the conversation?

2 MS. SHESTON: About the Christina comment?

3 MR. STRAUSS: Correct.

4 THE WITNESS: She was concerned that we had
5 somebody working for us that's spreading word to our
6 other employees that city manager and assistant city
7 manager are trying to destroy the City.

8 Q. (By Mr. Strauss) And are you able to give me
9 any time frame as to when the Christina comment happened
10 in relation to your conversation with Anne Cardwell
11 where she recommended Joanna be fired?

12 MS. SHESTON: I see you plumbing the depth of
13 your memory. If you can give him an estimate or tie it
14 to some event, that's great, but don't -- don't just
15 make a guess.

16 MR. STRAUSS: He wouldn't do that.

17 THE WITNESS: I am -- so I can say with --
18 quite confidently that that -- I shouldn't even --
19 that -- well, the City did an investigation on me.

20 Q. (By Mr. Strauss) Right.

21 A. So it was prior -- it was several months prior
22 to that, would be my window of conversation in regards
23 to that comment. Several months.

24 Q. Well, did Anne Cardwell say anything to you
25 during the recommendation to terminate Joanna Altman

July 19, 2023

1 regarding what Joanna Altman had told the investigators
2 of you?

3 MS. SHESTON: Vague and ambiguous.

4 I want to make sure I understood the question.
5 Did Anne tell Greg, in the conversation about
6 termination, anything that Joanna had said to the
7 investigators; is that --

8 MR. STRAUSS: My question was clearer than I
9 thought it was. Yeah, that's exactly it.

10 MS. SHESTON: Okay.

11 **THE WITNESS: No.**

12 Q. (By Mr. Strauss) Okay.

13 Did Anne reference the incident where Joanna
14 came to you and said she was better qualified when Anne
15 was recommending Joanna's termination?

16 **A. No.**

17 Q. Is there anything else you can tell me about
18 the conversation between you and Anne Cardwell where
19 Anne recommended terminating my client, Ms. Altman, that
20 you haven't already said?

21 MS. SHESTON: Subject to the fact that there
22 were lawyers in the room and he's not asking about that.
23 It's what did Anne say. If you can recall.

24 **THE WITNESS: Now, again, it's -- it's -- you**
25 **know, when you're an ongoing operation, it's -- I can't**

July 19, 2023

1 remember the conversation, that specific moment we were
2 just discussing.

3 I will say that one of the common conversations
4 were about trust, and so when you make a comment like
5 you're -- me and Anne are trying to destroy the City,
6 you -- to another employee, there's a little trust that
7 they have that support for you.

8 So I -- I can't recall the specifics of her
9 recommendation, because it's more of an ongoing
10 conversation of -- of that, certainly someone making
11 that statement causes quite a bit of concern.

12 Q. (By Mr. Strauss) Okay.

13 Was the decision to terminate Slater and Will
14 made at the same time as the decision to terminate
15 Joanna?

16 A. You know what, it evolved over a couple weeks'
17 time because we were in quite a bit of discussion with
18 the City Attorney's Office in regard to specifics of,
19 you know, the fact that they're all at-will employees;
20 that, you know, is there any concerns because they did
21 file -- they did make a claim about me.

22 So just had a whole lot of conversation about
23 prior -- you know, what our concerns were as the
24 operating folks, and then legal conversations.

25 So I would say to you, no, that they weren't

July 19, 2023

1 made at the same moment in time, but in a window of
2 time, yes.

3 Q. What claim had they made about you?

4 A. I shouldn't say a claim. I should say an
5 investigation. So --

6 MS. SHESTON: I think you've answered the
7 question.

8 Q. (By Mr. Strauss) So at that point in time, you
9 believe that an investigation was made into you as a
10 result of something that my clients had said?

11 A. So at the conclusion of the investigation is
12 when we made the decision.

13 Q. Right.

14 A. So what was your question again? More
15 specifically?

16 Q. Did you understand that that investigation was
17 conducted as a result of something my clients had said?

18 A. So Joanna -- so Heather Ruiz, HR director, came
19 to me and said that Michelle Straub had gone to her,
20 because Joanna had gone to Michelle Straub. Michelle
21 Straub is my administrative assistant.

22 Q. Right.

23 A. And what Heather relayed to me about what
24 Joanna said was that Joanna was trying to get some
25 support because they had a six-to-one vote of the City

July 19, 2023

1 Council to remove me, and that a -- and that a
2 closed-session meeting would be called the next Tuesday
3 by Councilmember Dew.

4 (Stenographer clarification.)

5 MR. STRAUSS: That's D-e-w.

6 MS. SHESTON: D-e-w.

7 **THE WITNESS: Yes.**

8 Q. (By Mr. Strauss) So this is a conversation you
9 had with Michelle Straub?

10 **A. No.**

11 Q. I'm sorry. Heather Ruiz told you this?

12 **A. Yes.**

13 Q. Got it.

14 Was this before the -- to your knowledge --
15 before the investigation commenced?

16 **A. Yes.**

17 Q. Okay. All right.

18 So where did this conversation take place? Was
19 it a telephone call or did she come to your office or
20 how did this happen?

21 **A. Heather?**

22 MS. SHESTON: The one between him and Heather?

23 MR. STRAUSS: Yes.

24 **THE WITNESS: My office.**

25 Q. (By Mr. Strauss) Okay.

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1 And so give me a little bit more detail about
2 what happened.

3 Did Michelle make a -- I'm sorry. Did Heather
4 make an appointment to talk to you or did she drop by?

5 A. I -- I don't recall whether -- I -- she
6 probably just dropped by.

7 Q. And she said, I've got to tell you something I
8 just learned from your assistant?

9 A. She said that Michelle was very concerned about
10 a conversation that she just had with Joanna, thought
11 that I should be made aware of it.

12 Q. Okay.

13 A. And the fact of the matter was, she told me
14 that -- that there was a vote of six to one to terminate
15 me from the councilmembers and a special meeting would
16 be called on Tuesday. And there wasn't any more
17 information in regards to what that was. That was just
18 the statement.

19 Q. How many councilmembers were there?

20 A. Seven.

21 Q. How many were needed to vote to terminate you?

22 A. Four.

23 Q. So sounds like they already had the votes to
24 terminate, if this is true?

25 A. Clearly, yes.

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1 Q. Okay.

2 A. Six to one would be --

3 Q. More than four?

4 A. And she did say and they were working on Hakeem
5 Brown.

6 (Stenographer clarification.)

7 THE WITNESS: Hakeem Brown. Councilmember
8 Hakeem Brown.

9 MS. SHESTON: Hakeem, H-a-k-e-e-m.

10 Q. (By Mr. Strauss) And obviously this concerned
11 you?

12 A. Very much.

13 Q. You did not want to be terminated?

14 A. Probably more concerning was the fact that the
15 week prior to, I had had the City Council provide me the
16 first -- the draft of their performance evaluation of
17 me, which was very good.

18 So, actually, it confused me significantly why
19 someone would say that at the same time I'm -- I've got,
20 in writing, a performance evaluation that's very good.
21 So, yeah.

22 Q. Yeah. Makes sense. Okay.

23 And Michelle Straub was your
24 secretary/administrative assistant?

25 A. Yeah, executive secretary, yes.

July 19, 2023

1 Q. Executive secretary.

2 Was she working at the time? I've heard that
3 she may have been on some sort of medical leave.

4 **A. She was working at the time.**

5 MS. SHESTON: At the time of the Heather
6 conversation that we're talking about?

7 MR. STRAUSS: Yes.

8 MS. SHESTON: That point?

9 Q. (By Mr. Strauss) Had she been on a medical
10 leave before that?

11 **A. I don't remember if it's before or after, so**
12 **I'm going to -- she was on medical leave.**

13 Q. But you're clear that at least as of the time
14 of this conversation, she was working?

15 **A. Yes.**

16 Q. Was she there that day?

17 **A. My recollection is yes.**

18 Q. Did you talk to her about this?

19 **A. No.**

20 Q. Why not?

21 **A. I didn't -- I -- when something like that comes**
22 **up, it's not something I want to talk about and -- nor**
23 **discuss any further with her. This timeline would be**
24 **likely, you know, after she said Joanna said I'm trying**
25 **to destroy the City, and because I'd just done an**

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1 evaluation and I hear it's a six-to-one vote against me,
2 I made a decision I'm not going to have a conversation
3 with people about this. Let's see what happens, see if
4 any of this comes to fruition.

5 And the time period was very short because
6 their claim was Tuesday night, Councilmember Dew was
7 going to ask for a closed session.

8 Q. Do you remember what day this was? Monday?
9 Friday? Thursday?

10 A. It was probably latter part of the week.

11 Q. Okay.

12 A. Of the week before the Tuesday meeting.
13 Several days.

14 Q. Did you do anything to find out if this
15 information was, in fact, true?

16 A. I did not.

17 Q. Okay.

18 So you told me you had already seen, I think
19 you said, a draft performance evaluation?

20 A. Yes.

21 Q. Can you explain to me how your performance
22 evaluation process worked. In other words, why was
23 there a draft?

24 A. The City Council, they independently do a
25 performance evaluation, each of them has a sheet

July 19, 2023

1 together, and then they combine those numbers. And
2 they -- what they do is they give it to me, and then I
3 have a chance to provide any feedback, if I disagree
4 with any of that, and then they would finalize it after
5 that.

6 So I got the draft to look at, and then it
7 would be -- I would be coming back to them within the
8 next two Council meetings to discuss if I had any
9 questions, and come up with my type goals and areas of
10 improvement for them.

11 Q. Okay. Thank you.

12 So shortly before this conversation with
13 Heather, you had received the draft?

14 A. Yes.

15 Q. Had you started working on any --
16 (Stenographer clarification.)

17 Q. (By Mr. Strauss) -- response?

18 A. I had read through it, but I hadn't been
19 working on any response. My recollection was -- is I
20 would go back when I had got those completed. But it
21 seemed to me it was -- would have been the Tuesday. It
22 was like we -- I got it the Tuesday before the Friday
23 that this conversation happened.

24 Q. But it was generally positive review, so
25 probably not too much for you to comment on?

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1 A. No. I mean, yes, it was a very positive
2 review.

3 Q. Okay. Good. All right.

4 Have you ever talked to Michelle Straub about
5 these events?

6 MS. SHESTON: Vague and ambiguous as to "these
7 events."

8 Q. (By Mr. Strauss) This conversation she had
9 with Joanna?

10 A. I don't recall that I -- that I did.

11 Q. Did anyone ever tell you why Joanna was looking
12 for votes to have you terminated?

13 A. No.

14 Q. Okay.

15 A. It was actually shocking to hear.

16 Q. Okay.

17 So was there a regular Council meeting the next
18 Tuesday?

19 A. Yes.

20 Q. Did you attend?

21 A. Yes.

22 Q. And was there any conversation regarding you or
23 these -- this supposed termination during that meeting?

24 A. Not during the public meeting; however, the
25 mayor called me into his office the next morning to tell

July 19, 2023

1 me that the Council had decided in closed session to
2 conduct an investigation into some complaints -- some
3 complaints from a few employees.

4 Q. Okay.

5 Which mayor was that?

6 A. Sampayan.

7 Q. Sampayan.

8 Do you get to attend closed session?

9 A. Most of the time, yes. Almost all the time.

10 Q. Okay.

11 Were you -- do you remember being asked to
12 leave because you were -- you were going to be a topic
13 of the closed session?

14 A. I -- you know, I don't recall whether they
15 actually had a closed session or one of the
16 councilmembers asked the mayor to put one on the agenda.
17 I cannot remember specifically.

18 Q. Okay.

19 But in any event, you weren't there when they
20 discussed this?

21 A. No.

22 Q. And it's the next day the mayor called you in
23 and said they're going to do an investigation because of
24 complaints from employees?

25 A. Correct.

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1 Q. Did he tell you who they were?

2 A. No.

3 Q. Did you have a sense of who they were?

4 A. Yes.

5 Q. Who did you think it was?

6 A. Joanna, because that's what she said was going
7 to happen.

8 Q. Okay.

9 Good -- probably a good supposition.

10 A. It was implied that it was -- the three of
11 those were very close, so the implication was it was the
12 three of them, but no one specifically gave any names.
13 Joanna was the only one I knew for sure.

14 Q. But in your mind, you thought the other two
15 were my other two clients?

16 A. Yes.

17 Q. Slater Matzke and Will Morat?

18 A. Yes.

19 Q. All right.

20 Did the mayor say anything about what about you
21 was going to be investigated?

22 A. He did not.

23 Q. Did you have any clue as to what about you was
24 going to be investigated?

25 A. I did not. So honestly, I was very upset

July 19, 2023

1 because the week before, I had a very good evaluation.

2 Q. Right. I imagine.

3 A. I was upset. But I will tell you, the decision
4 of Council -- and I told them that, I told the mayor
5 that at the end of that conversation, that he's doing
6 the right thing, because we investigate claims of
7 employees -- on all other employees and so he should do
8 that with me.

9 Q. And they certainly had the right to do that?

10 A. Absolutely.

11 Q. Did you ever become aware that an investigation
12 had been launched?

13 A. I -- there was no specific information when it
14 started or who they were interviewing. I -- so I knew
15 nothing about what was going on, other than an --

16 (Stenographer clarification.)

17 THE WITNESS: Interviewing me.

18 Q. (By Mr. Strauss) And you were interviewed in
19 the investigation; yes?

20 A. Now that I say that, I've been interviewed in
21 other investigations. I don't recall for sure if they
22 actually did.

23 Q. During your time working for City of Vallejo,
24 were you ever interviewed by any investigator?

25 A. In re- -- be more specific; in regards to a

July 19, 2023

1 complaint or --

2 Q. Yeah.

3 A. -- about me?

4 Q. About anything. Then we'll talk about you. I
5 just want to get the lay of the land first.

6 A. In Modesto? Is that what you asked me? In
7 Modesto?

8 Q. Vallejo.

9 A. Oh, Vallejo.

10 Q. I'm interested in Modesto, but not in this
11 lawsuit.

12 A. Yes. Yeah, I have been. I'm sorry. Thank
13 you.

14 Q. That's fine.

15 How many times have you been interviewed by an
16 investigator?

17 MS. SHESTON: About an employee complaint issue
18 in Vallejo?

19 MR. STRAUSS: Correct.

20 THE WITNESS: Two, for sure, if not three.

21 Q. (By Mr. Strauss) Okay.

22 The two for sure, do you remember when they
23 were?

24 A. I don't recall the specific dates. They were
25 both complaints by Judy Shepard-Hall.

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1 Q. And these were complaints about you?

2 A. Correct.

3 Q. And we talked a little about -- a little bit
4 about this earlier. Do you know the specifics of the
5 complaints?

6 A. I did not know the specifics of the complaints.

7 Q. Okay.

8 And those -- is it your understanding that
9 those com- -- two complaints that were being
10 investigated are the subject of the lawsuit that's now
11 pending?

12 A. I -- I don't know any of the substance of those
13 two complaints, but they were both --

14 Q. Okay.

15 A. -- unsubstantiated.

16 Q. All right.

17 And do you know who conducted the
18 investigation?

19 A. Can't recall. I can't recall the firm that did
20 that.

21 Q. You believe the City hired outside
22 investigators?

23 A. Yes. Human Resources with -- in conjunction
24 with City Attorney's Office usually did that.

25 Q. Now, you said there may have been a third?

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1 A. I'm just trying to recall. I can't
2 specifically recall the -- being -- well, we call it an
3 investigator, but being interviewed by the person
4 investigating the claim --

5 (Stenographer clarification.)

6 THE WITNESS: I can't recall -- trying to find
7 the -- who interviewed me, or if I actually had an
8 interview with the person that did the investigation
9 into the claim that the City Council investigated
10 against me.

11 Q. (By Mr. Strauss) Do you know who that person
12 was who did that investigation?

13 A. I know that the city attorney hired Boucher --
14 Chris Boucher, that law firm. That's all I know.

15 Q. Do you know Chris Boucher, B-o-u-c-h-e-r?

16 A. Yes.

17 Q. How do you know him?

18 A. He -- he had done work for the City -- or
19 this -- this is where I was introduced to him, but since
20 then, he did some other work for City Attorney's Office.

21 So I got to know him through some of -- some of
22 those other issues that we dealt with.

23 Q. Okay.

24 You confused me a little bit with your answer.

25 You met him sometime before he did work for

July 19, 2023

1 City of Vallejo?

2 A. I did not.

3 Q. Okay.

4 A. I believe that the City Attorney's Office hired
5 him to either conduct the or oversee the investigation.
6 I'm not sure. But that's where I -- that's where I was
7 introduced to him for the first time.

8 Q. And what I don't understand is which
9 investigation you're referring to.

10 The investigation of you or some earlier one?

11 A. The City Council investigation into me.

12 Q. Got it.

13 So the first time you ever met Christopher
14 Boucher was sometime after the City Council retained him
15 to investigate you?

16 MS. SHESTON: Objection. Vague and ambiguous.
17 Misstates his testimony.

18 He said he wasn't sure what Boucher actually
19 did, whether he did the investigating or whatever, so --

20 Q. (By Mr. Strauss) Fair enough. Let me try and
21 rephrase that to be more accurate.

22 Is it true that the first time you met
23 Christopher Boucher was after the City Council launched
24 their investigation of you?

25 A. My recollection is that I met him because he

July 19, 2023

1 conducted a -- a course for the employees of the City.

2 Q. Okay.

3 A. I think that that's -- I think he did one of
4 those for us, and that's how I at least knew who he was
5 when he -- who he was when he came. Sorry.

6 Q. If you're going to lean, lean that way.

7 A. Yeah.

8 Q. Did you attend that course?

9 A. Yes.

10 Q. Do you know what it was about?

11 A. I don't recall what it was about. I'm --
12 I'm -- yeah, I don't recall.

13 Q. Was it a good presentation?

14 A. It was.

15 Q. Okay.

16 Did it have something to do with HR issues?

17 A. Yes. Yeah.

18 Q. Okay. All right.

19 And then did you have any encounters with
20 Mr. Boucher from that time up until he was somehow
21 involved in the City Council's investigation of you?

22 A. No.

23 Q. Okay.

24 So do you recall when you were introduced to
25 him again in connection with the investigation of you?

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1 A. I do not, no. Not the first time.

2 Q. Did you meet him before you understood the
3 investigation was completed?

4 A. I -- I -- I can't -- it's been three-some
5 years. I'm thinking --

6 Q. I understand.

7 A. -- I cannot remember the specific -- them
8 specifically interviewing me or who it was if they did
9 interview me. The first time -- the first time I recall
10 with him being part of the conversation was a Zoom
11 conversation where he was -- he and Randy were informing
12 me of the -- of the outcome of the lawsuit.

13 Q. That's the first conversation you can actually
14 remember?

15 A. I can recall, yes.

16 Q. Okay.

17 Do you know if you had any conversations with
18 him before that?

19 A. I --

20 Q. About the investigation?

21 A. It would only be an interview -- it would only
22 be to interview me in regards to it.

23 Q. And you're not clear whether he interviewed you
24 or not?

25 A. I'm not.

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1 Q. Do you know the name Linda Daube, D-a-u-b-e?
2 You're looking like you might.

3 A. Name's familiar. I -- well, I'm thinking that
4 that name pops into the investigation side of who's
5 asking questions.

6 Q. Do you believe you were interviewed by Linda
7 Daube?

8 A. You know, I can't remember being interviewed by
9 Chris. It's not jumping into my mind, so it would be
10 highly more likely of being interviewed by Linda, now
11 that you say that. I didn't know who Linda was, and
12 so -- I believe that is who interviewed me.

13 Q. Okay.

14 So we've been talking about this from different
15 angles.

16 Do you now believe you actually were
17 interviewed during the investigation?

18 A. Yes.

19 Q. Okay.

20 A. I do.

21 Q. All right.

22 A. Most likely it was Linda.

23 MR. STRAUSS: Okay. All right.

24 Let's go off the record.

25 THE VIDEOGRAPHER: All right.

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1 The time is 2:25 p.m. We are going off the
2 video record.

3 (Recess taken from 2:25 p.m. to 2:34 p.m.)

4 THE VIDEOGRAPHER: The time is 2:34 p.m. We
5 are back on the video record.

6 MS. SHESTON: Counsel, the witness would like
7 to clarify one previous response from right before we
8 broke.

9 MR. STRAUSS: Okay.

10 THE WITNESS: Yeah, so I walked out trying to
11 think about the conversation about whether I was
12 interviewed by any investigator, and I cannot recollect
13 that I was. So I just -- I don't want to say something
14 that I believe I was. I was all over the place on that
15 one.

16 Q. (By Mr. Strauss) A little bit.

17 A. I do not -- I do not recall being
18 interviewed --

19 Q. Okay.

20 A. -- by an investigator in that claim.

21 MR. STRAUSS: And, Counsel, we -- you have not
22 produced any interviews by the witness, and if one
23 exists, I would expect it to be produced. So I'd ask
24 you to reconfirm.

25 MS. SHESTON: I don't believe one exists.

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1 MR. STRAUSS: Okay.

2 Q. (By Mr. Strauss) So when I mentioned the name
3 Linda Daube, there was a glimmer of recognition that I
4 observed.

5 Where do you know that name from?

6 A. I -- I believe -- well, I know that I saw it as
7 part of one of the -- Open Vallejo, it was a media
8 piece, that name came out as far as having conversations
9 with Slater or Will, that she was an -- was doing the
10 interviews or something to that effect.

11 Q. And just to be clear, are you now telling me
12 that you are certain you were not interviewed during the
13 investigation or you just don't remember?

14 A. I'm saying I do not recall being interviewed by
15 the investigator.

16 Q. Okay.

17 Let me try it this way: Do you recall being
18 asked any questions related to any concerns that anyone
19 had about your job performance?

20 A. Can you repeat that.

21 Q. Yeah.

22 Do you recall being asked questions related to
23 concerns that employees had about your job performance?

24 A. I don't recall anybody asking me questions
25 about that.

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1 Q. Did anyone ever confirm to you that it was my
2 three clients who had initiated this investigation?

3 A. I -- not that I can recall.

4 Q. Okay.

5 That's not something Mr. Boucher ever shared
6 with you?

7 MS. SHESTON: Well, if it came up in the
8 context of attorney-client conversation, I'm going to
9 object on that front, but if it came up about the
10 investigation itself, because we've had a limited
11 waiver, you can answer that part.

12 MR. STRAUSS: Well, that's a fine distinction
13 for the witness to try to make.

14 Q. (By Mr. Strauss) Did Mr. Boucher ever share
15 that with you, that it was my clients who were involved?

16 MS. SHESTON: Well, that's a different
17 question, "were involved."

18 Same objection.

19 But go ahead.

20 THE WITNESS: I don't recall him ever divulging
21 that directly to me, but I think from the very beginning
22 when Joanna made the statement, that it was she and
23 they, as in Will and Slater, the three of them, had
24 proceeded on this.

25 So I don't recall anybody saying specifically,

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1 but from that very first interaction Joanna had, I think
2 my recollection is, is that information of those would
3 be those were the three who were doing it collectively.

4 Q. (By Mr. Strauss) And this information from
5 Joanna is what you learned through Heather Ruiz?

6 A. Yes. Yes.

7 Q. Okay.

8 And so throughout this entire investigation
9 process, at least in your mind, it was clear my three
10 clients were behind it?

11 A. Joanna was clear. The other two, I think she
12 said they. Just out of the association of the three of
13 them were always together, always did a lot, and seems
14 the things that would have been happening previously
15 with some of the behaviors of those two, I guess I came
16 to that deduction, that it was likely that those were
17 the other two. I don't know if anybody ever confirmed
18 who they -- all of them were.

19 Q. Were there any other suspects?

20 MS. SHESTON: Object to the term "suspects" as
21 vague and ambiguous. And argumentative.

22 Go ahead.

23 Q. (By Mr. Strauss) I can give you a more benign
24 term, if you like. I was jesting.

25 A. No.

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1 Q. There was no one else who you thought might be
2 behind the investigation of the complaints that led to
3 the investigation of you?

4 A. No. And the only one I knew for sure was
5 Joanna.

6 Q. Okay.

7 Was Shannon Eckmeyer gone from the City as of
8 the time of this investigation?

9 A. My recollection is yes.

10 Q. Did you ever discuss with her yourself, her
11 reasons for leaving the City?

12 A. Can -- what was the question again?

13 Q. Did you ever discuss with Shannon, yourself,
14 her reasons for leaving the City?

15 A. I -- I had a conversation with her about how I
16 was sad to see her leave, but I don't recall anything
17 specific to why she was leaving the City or her
18 commenting on that.

19 Q. Is it your understanding that she voluntarily
20 left?

21 A. Yes.

22 Q. Do you recall anything specific about that
23 conversation, other than your saying you were sad she
24 was leaving?

25 A. No. I -- that's -- I remember telling her I

July 19, 2023

1 was sorry that she was leaving, wish that she would
2 stay.

3 Q. Do you know if anyone did an exit interview
4 with her?

5 A. I don't know that.

6 Q. Do you know if exit interviews were ever done
7 at the City?

8 A. I know -- my recollection's some were. I don't
9 know any specifics of that, but some were.

10 Q. Do you know who would conduct them if they were
11 done?

12 A. I believe the Human Resources Department would
13 do that.

14 Q. Did anyone other than Shannon herself ever
15 share with you why she was leaving?

16 A. No.

17 Q. Okay.

18 When I say the name Linda Daube, does a visual
19 image spring up in your mind of what she might look
20 like?

21 A. No.

22 Q. Okay.

23 So if I'm understanding right, you met
24 Christopher Boucher at a presentation that he put on
25 that you attended for the City, and then you spoke to

July 19, 2023

1 him again at the end of the investigation process?

2 A. Yes, that's my recollection.

3 Q. And not any time in between?

4 A. I -- certainly not about the investigation. I
5 was trying to think he did -- he did do some other work
6 for us in regards to some of the police-related issues
7 and some of the personnel matters we had there. I don't
8 think those were happening simultaneously. But he did
9 help us with some of the police-brutality matters.

10 Q. Thank you for reminding me of that, because I
11 think you had mentioned other work he had done.

12 Do you know if that was done before the
13 investigation, after the investigation, during the
14 investigation?

15 A. I -- I don't know. That's not the hire I make.
16 The city attorney makes the decision whether to hire
17 them. I'm thinking timeline-wise that we had the police
18 issues going on for quite a significant amount of time,
19 that I -- that's where I could have first saw him, but I
20 don't recall that specific timeline.

21 Q. Okay.

22 Did you interact with him in connection with
23 his work on the police cases?

24 A. We didn't typically -- I mean, we had -- so we
25 had a team of people, from HR, to Police, to certainly

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1 City Attorney's Office, and Mr. Deis was helping to move
2 that forward.

3 So there was a team of six or seven people that
4 would go on Zoom usually once a week, and we would just
5 discuss what's going on in the police department, what
6 kind of cases there are. Usually they related to
7 personnel matters. So he would be there --

8 (Stenographer clarification.)

9 THE WITNESS: He would be part of the meeting.

10 Q. (By Mr. Strauss) Was he part of that team?

11 A. Yes. Not as frequent, as I think he was on
12 request by the City Attorney's Office, but he would
13 attend some of them.

14 Q. Do you know what his role was in connection
15 with the police cases?

16 A. My recollection is he was just basically there
17 to provide input, and as far as just when we went
18 through and discussed where all those cases were going,
19 what type of -- of -- you know, action might be
20 appropriate, what steps the Union may take, that he was
21 part of -- it was more like a strategy meeting, strategy
22 conversation. So there was no specific role that I can
23 recall. I would say City Attorney's Office was the one
24 who hired and specified what his role would be there.

25 Q. Do you know who specifically within the City

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1 Attorney's Office hired him?

2 A. Oh, boy. Again, it's a timeline issue. I know
3 that Randy Risner was in the meeting. I can't remember
4 if it was in the interim or whether Veronica had already
5 come on board. I want to think it might have -- it
6 was -- I don't know. I would be speculating. I'd be
7 guessing. I would be guessing.

8 MS. SHESTON: Don't do that.

9 MR. STRAUSS: Don't do that.

10 MS. SHESTON: Nobody wants that.

11 THE WITNESS: I can't recall that time frame.

12 Q. (By Mr. Strauss) Are you aware of some
13 personal relationship between Risner and Boucher,
14 friendship or --

15 A. No.

16 Q. -- other association?

17 A. No.

18 Q. Do you know the Lieutenant John Whitney?
19 (Stenographer clarification.)

20 MR. STRAUSS: John Whitney, W-h-i-t-n-e-y.

21 THE WITNESS: Yes.

22 Q. (By Mr. Strauss) You're aware he has a claim
23 against the City?

24 A. Yes.

25 Q. Are you being paid to testify in that case, if

July 19, 2023

1 called?

2 A. Yes.

3 Q. Okay. All right.

4 So when Mr. Boucher spoke with you about the
5 results of the investigation, what did he tell you?

6 A. So first of all, the -- the person that
7 discussed it with me was the city attorney. I
8 believe -- I'm pretty sure it was the acting city
9 attorney, which would be Randy Risner.

10 Q. Okay.

11 A. Mr. Boucher was accompanying him, and it was on
12 Zoom. And so what the -- the city attorney told me in
13 that meeting was that, Good news for you, Greg, that the
14 investigation was unsubstantiated and -- and that's been
15 provided -- information's been provided to the City
16 Council in regards to the findings of it, and that was
17 the extent of -- he told me that, You are not going to
18 get a copy of it.

19 And that pretty much ended as far as that
20 meeting when it came to telling me what it was; you
21 know, what the -- just gave me the summation of the
22 investigation as unfounded, what the claims were, and
23 that was it.

24 Q. What were the claims?

25 A. I don't know.

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1 Q. He didn't tell you what the claims were?

2 A. He did not.

3 Q. Okay.

4 I misunderstood what you just said.

5 So other than saying, Good news, Greg, the
6 claims are unsubstantiated -- unsubstantiated, did he
7 say anything else? Did anyone say anything else?

8 MS. SHESTON: Other than what he already
9 testified to --

10 MR. STRAUSS: Correct.

11 MS. SHESTON: -- that you're not getting a copy
12 of the report?

13 MR. STRAUSS: Yeah.

14 THE WITNESS: Again, what I would say, over
15 time, we discussed none of the specifics of the
16 investigation, but steps, you know, as far as the
17 city -- assistant city manager and I were -- decisions
18 we were making in regards to their future employment,
19 Will, Slater, and Joanna.

20 Q. (By Mr. Strauss) Okay.

21 Does that mean there were discussions about
22 whether or not to terminate them?

23 A. Yes.

24 Q. Okay.

25 And when did those conversations take place?

July 19, 2023

1 Within days? Weeks? When was it?

2 A. Within a couple weeks.

3 Q. Who was involved in those discussions?

4 A. Anne, City Attorney Risner, and Chris was part
5 of a number of them.

6 Q. Okay.

7 Who initiated those conversations?

8 A. I did. Seeking legal advice.

9 Q. What did you want advice about?

10 A. If there was any potential liabilities in what
11 decision -- you know, decision I -- I might make; did it
12 appear to them whether the justification for it was --
13 they could say that seems supportive; the fact that
14 they're at-will employees, what does that really mean?

15 So general questions, just as to trying to
16 formulate a decision; should there be lower levels of
17 discipline? Just those types of questions you're going
18 to have when you're looking at a situation like this.

19 Q. Okay.

20 So even before you reached out to an attorney,
21 you were thinking in your mind the possibility of
22 terminating my clients?

23 A. Yes. Yes.

24 Q. Why?

25 A. We talked about a number of those issues and

July 19, 2023

1 what I felt were to the point of insubordination and not
2 being communicative. All of those, there was concerns
3 about how they were doing their job, and actually
4 concerns even prior to the investigation on me, that
5 appeared to me that they were purposefully leaving me
6 out of conversations and undermining my authority as a
7 city manager in some of their actions that they took.

8 Q. You recall describing the reasons why they were
9 terminated in a declaration you signed under penalty of
10 perjury?

11 A. I don't.

12 Q. Do you remember signing that declaration under
13 penalty of perjury?

14 A. Before I left.

15 Q. All right.

16 And do you remember that in that declaration,
17 you were describing the reasons why you made a decision
18 to terminate them?

19 MS. SHESTON: If you remember it, great, tell
20 him what you remember. If you don't, it is what it is.

21 THE WITNESS: Those were some really tough
22 days, and I don't recall. I signed multiples and the
23 final separation agreement for several people, and so I
24 don't recall, haven't looked at them since, so
25 apologies, I don't know.

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1 Q. (By Mr. Strauss) That's all right.

2 So by tough days, you mean this is the time
3 you're separating and health problems and other issues?

4 A. Correct.

5 Q. That's what you're talking about?

6 A. Correct.

7 Q. Okay.

8 I understand.

9 Well, let me drill down a little bit about what
10 you just said, and I just want to find out what you
11 remember about it; okay?

12 A. Okay.

13 Q. So you said that after the investigation was
14 concluded and it was unsubstantiated, and before you
15 reached out to counsel for advice, you were thinking
16 about terminating my clients for a couple of reasons,
17 and one of which, the first one you said, was leaving
18 you out of conversations; correct?

19 A. Yes. But can I clarify that we're talking
20 about them three together, and they all have different
21 situations that came into play in the evaluation. So
22 certainly Will and Slater, that I worked directly with,
23 that was one of the concerns.

24 Q. Okay.

25 What do you mean when you say it came into play

July 19, 2023

1 in the evaluation?

2 A. So my decision whether to terminate them or
3 not, those were all different components or pieces
4 that -- that I evaluated when I made the final decision.

5 (Stenographer clarification.)

6 THE WITNESS: Final decision on their
7 termination. Will and Slater's and Joanne's.

8 Q. (By Mr. Strauss) And to be clear, when you use
9 the word "evaluation," you're not speaking of an
10 investigation or a performance evaluation; you're
11 talking about your personal evaluation of their work?

12 A. Correct.

13 Q. Okay.

14 A. And the situation.

15 Q. All right.

16 And so leaving you out of conversations
17 referred to Slater and Will, but not Joanna?

18 A. Correct.

19 Q. Okay.

20 And did you tell me this morning what you meant
21 by that or is there something more to that?

22 A. No, I -- so much of that had to do with the
23 lack of communication and -- with them not keeping me
24 informed of projects. That's one of the components of
25 that.

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1 (Stenographer clarification.)

2 **THE WITNESS: Components of that.**

3 MR. STRAUSS: Let's go off the record for a
4 second.

5 THE VIDEOGRAPHER: All right.

6 The time is 2:53 p.m. and we are going off the
7 video record.

8 (Recess taken from 2:53 p.m. to 2:55 p.m.)

9 THE VIDEOGRAPHER: All right.

10 The time is 2:55 p.m. and we are back on the
11 video record.

12 Q. (By Mr. Strauss) And, Mr. Nyhoff, I appreciate
13 we're talking about events that happened two years ago,
14 and you're doing your best to remember them, and I
15 understand that, and thank you for that.

16 So we're talking about your thought process in
17 terminating my clients.

18 And you told me that Slater and Will were
19 leaving you out of conversations, and this is something
20 that you'd been thinking about for a while?

21 A. Well, yes, all those projects that we've
22 discussed earlier, that -- that's just a component of
23 the conversation. I think the Judy issue is a component
24 of the -- of my decision-making analysis. The -- the
25 lack of work being with the other leadership team and

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1 trying to have a cohesive leadership team, that they
2 were breaking apart. A lot of those. And each one was
3 independently evaluated.

4 Q. Up until this time when the investigation of
5 you has been completed, you hadn't asked anyone about
6 whether or not you could terminate my clients, had you?

7 A. I -- I had conversations with the City
8 Attorney's Office.

9 Q. When?

10 A. Maybe it wasn't during the investigation, maybe
11 it was during the -- it was actually after. So -- to be
12 specific here, this is during the investigation, but --
13 trying to think of timelines --

14 Q. Yeah.

15 A. -- because Slater Matzke turned into a whole
16 different person once Will got put on administrative
17 leave, and I don't recall which window when he was -- it
18 was probably during the investigation, because I would
19 communicate with the City Attorney's Office in regards
20 to some performance issues in regards to him
21 understanding, just saying, I know I'm under
22 investigation, it's not something -- or please advise
23 when it comes to some of these -- some of the things he
24 was doing during that period of time in his role.

25 Q. Okay.

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1 What was he doing?

2 A. I talked a little bit about that with Factory
3 OS, for instance. Talked about that with the mayor, for
4 instance. We -- he was disruptive during the -- some of
5 the staff meetings. He actually, at one point in time,
6 told LaTanya, among the other ones, to go talk to the
7 Economic Development director, if you want some -- on a
8 decision, or he wants some input into that.

9 And so he made a complete -- it was 180 percent
10 different than who Slater was, and it was directed, in
11 my opinion, against me, to make me look worse, to make
12 me look less -- less as a city manager as I needed to in
13 front of the rest of the employees.

14 So that was going on. I had to take, again,
15 the parking garage project. I had to have two people
16 co-lead that, two other directors, because I no longer
17 had trust that Slater was going to do what's in the best
18 interest of the City or -- or me. Because these
19 failures would reflect on me, and I actually felt that
20 that was his intention, certainly because of his -- so
21 angry and -- and upset about me putting Will on
22 administrative leave.

23 Q. Okay.

24 So during the time that you were aware you were
25 under investigation for a complaint that you believe

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1 was, in part, initiated by Slater Matzke, you reached
2 out to the city attorney to discuss terminating him?

3 A. No. I -- no, I reached -- well, let me put it
4 this way. I reached out for advice from my legal
5 counsel. In regards to these situations, some of these
6 situations that I was just talking about.

7 Q. Who are you talking about, who is your legal
8 counsel?

9 A. Randy Risner.

10 Q. So you reached out to the acting city attorney?

11 A. Correct.

12 Q. About terminating Slater Matzke?

13 A. No.

14 Q. About what?

15 A. Seeking advice.

16 Q. And was it during that discussion the
17 possibility of terminating him raised?

18 A. No.

19 Q. Okay.

20 What were you seeking advice to do?

21 A. How best to manage the situation when I'm under
22 investigation. And it was quite evident from his
23 behavior that he was part of that claim. And I was very
24 cautious, and only would take any steps when it came to
25 any type of disciplinary action if that was necessary

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1 that the city attorney felt comfortable in approving.

2 Any time you're under investigation, you're
3 not -- I mean, you just -- obviously, you've got a claim
4 against you and you're going to -- I understand, as Judy
5 makes a claim against me, I -- one thing that I'm not
6 going to do is take any inappropriate action without
7 legal counsel.

8 Q. Okay.

9 And you said something that I didn't quite
10 understand.

11 You said "part of that claim," referring to
12 Slater Matzke.

13 What did you mean by that? What claim are you
14 talking about? We can have the answer read back.

15 A. Can you help me with that.

16 (Record read.)

17 MS. SHESTON: So what's the question now, I'm
18 sorry?

19 Q. (By Mr. Strauss) What were you referring to
20 when you said "part of that claim"?

21 MS. SHESTON: Okay. Thanks.

22 THE WITNESS: So the -- the claim, which is the
23 same with Judy as this claim, is basically the
24 investigation. So they're claiming something that I've
25 done is inappropriate, and so that would be my

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1 definition of a claim --

2 Q. (By Mr. Strauss) Okay.

3 A. -- to initiate that investigation.

4 Q. Okay.

5 And so you decided you weren't going to take
6 any action against Slater Matzke until after that claim
7 was over?

8 A. I was seeking advice from legal counsel in
9 regards to action or steps that I might take to --

10 (Stenographer clarification.)

11 THE WITNESS: -- correct the behavior.

12 Q. (By Mr. Strauss) And you concluded that you
13 were not going to terminate him until after the
14 investigation was over; right?

15 A. Yes.

16 Q. Had you had any conversations where you were
17 seeking advice about what to do about Slater before the
18 investigation into you had been launched?

19 MS. SHESTON: Well, vague and ambiguous as to
20 time.

21 Q. (By Mr. Strauss) So let me try and clarify.
22 You're notified by Mayor Sampayan?

23 A. Sampayan.

24 Q. Thank you.

25 -- that they're investigating you?

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1 A. Yes.

2 Q. Prior to that moment, had you ever gone to
3 anyone asking for advice about whether or not you could
4 terminate Slater Matzke?

5 A. So after Will got put on leave, several
6 occasions, I had discussions with the city attorney's
7 Office about his -- his behavior and what -- what --
8 what his reaction to that was.

9 MS. SHESTON: "His" being Slater?

10 THE WITNESS: Slater's reaction to that, and
11 what -- how I interpreted those reactions, as being
12 upset and actually being insubordinate.

13 Q. (By Mr. Strauss) Did you ask whether or not
14 you could terminate him before the mayor told you you
15 were under investigation?

16 A. So I would say I had conversations with legal
17 counsel in regards to all levels of discipline.

18 Q. Had you taken any steps whatsoever to terminate
19 Slater Matzke prior to learning that you were under
20 investigation?

21 A. No.

22 Q. Okay.

23 Same true of Will Morat?

24 A. Will Morat was -- we had counseled him early
25 on, but other than that, no.

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1 Q. Okay.

2 Is the same also true -- and by no, you mean
3 you had not taken any steps to terminate Will Morat
4 prior to learning that you were under investigation?

5 A. Correct.

6 Q. Okay.

7 Is that also correct with respect to Joanne
8 Altman?

9 A. Yes.

10 Q. Okay.

11 And then shortly after you had been told that
12 you had -- that the complaints against you had been
13 unsubstantiated, that's when you first took affirmative
14 steps to initiate the termination of my clients?

15 A. Yeah, once -- once there was unsubstantiated
16 findings, then we started discussing what are our next
17 steps here.

18 Q. And what role did the fact that they had
19 initiated an investigation against you play in your
20 taking steps to terminate them?

21 A. I think it would be -- it -- the role it played
22 was the fact that several of the comments leading up
23 was -- I was losing trust in them. And so that's for
24 all three of them, different scenarios prior to the
25 investigation, during the investigation, and then

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1 afterwards; it was these three individuals work for the
2 city manager's office, and can I trust them as at-will
3 employees to act -- to change those things that had
4 happened beforehand, and can I trust them?

5 So there was conversations about the trust
6 factor that's necessary between an employee and
7 employer.

8 Q. Did -- was all trust between you and my clients
9 severed because they initiated an investigation of you?

10 A. Well -- well, if I would -- I would state it as
11 this: Is there's one thread left because that trust was
12 being lost over months for Will; Slater was turned very
13 much against me in the last several months during the
14 investigation; and Joanna had indeed gone to my
15 executive assistant and also said that I'm trying to
16 destroy the City, along with my assistant.

17 So I would say yes, the trust was -- was
18 being -- had been lost, for the most part, and this --
19 might perhaps say is a thread, final thread, that said,
20 What are we going to do now? And I had to make a
21 decision with the three at-will employees.

22 Q. Okay.

23 Did you ever learn that they were told they had
24 to be completely honest in answering the investigator's
25 questions on threat of termination?